

ESTTA Tracking number: **ESTTA445907**

Filing date: **12/12/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91199261
Party	Defendant Vidtel, Inc.
Correspondence Address	LYNN M. HUMPHREYS MORRISON & FOERSTER LLP 425 MARKET STREET SAN FRANCISCO, CA 94105-2482 UNITED STATES lhumphreys@mofo.com, jkripke@mofo.com, djones@mofo.com, mmcdaniel@mofo.com
Submission	Answer
Filer's Name	Jennifer Lee Taylor
Filer's e-mail	jtaylor@mofo.com, lhumphreys@mofo.com, jkripke@mofo.com, djones@mofo.com, mmcdaniel@mofo.com
Signature	/Jennifer Lee Taylor/
Date	12/12/2011
Attachments	Vidtel_Answer.pdf (5 pages)(165276 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

JOEL S. MILINSKY D/B/A VIDTEL,

Opposer,

v.

VIDTEL, INC.,

Applicant.

Opposition No.: 91199261

Application No.: 77/660,077

ANSWER TO NOTICE OF OPPOSITION

BOX TTAB NO FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Sir or Madam:

Applicant Vidtel, Inc. ("Applicant") hereby answers the Notice of Opposition filed by Opposer Joel S. Milinsky d/b/a Vidtel ("Opposer"):

1. Responding to Paragraph 1 of the Notice of Opposition, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis denies the allegations therein.

2. Responding to Paragraph 2 of the Notice of Opposition, Applicant admits that it is a Delaware corporation. Applicant further admits that its place of business was previously located at 825 E. Middlefield Road, Mountain View, California 94043, but Applicant clarifies that its place of business is now located at 1298 Kifer, Suite 508, Sunnyvale, California 94086.

3. Responding to Paragraph 3 of the Notice of Opposition, Applicant admits the allegations therein.

4. Responding to Paragraph 4 of the Notice of Opposition, Applicant denies the allegations therein.

5. Responding to Paragraph 5 of the Notice of Opposition, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis denies the allegations therein.

6. Responding to Paragraph 6 of the Notice of Opposition, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations, and on that basis denies the allegations therein.

7. Responding to Paragraph 7 of the Notice of Opposition, Applicant admits that the United States Patent & Trademark Office's electronic TARR database lists "Joel S. Milinsky formerly VIDTEL Corporation" as the owner of record for pending U.S. Trademark Application Serial No. 77/901,233 for "Computer consulting services in the use of hardware and software systems to telecommunications, media applications and the like, and computer software and hardware design in the field of telecommunications, for others" in International Class 42. Applicant admits that the United States Patent & Trademark Office's electronic TARR database lists "Vidtel Corporation" as the owner of record for cancelled U.S. Registration Nos. 1,808,180 and 1,331,363. Except as expressly admitted, Respondent denies the remaining allegations in Paragraph 7 of the Notice of Opposition.

8. Responding to Paragraph 8 of the Notice of Opposition, Applicant admits that the mark shown in U.S. Application Serial No. 77/901,233 has the same spelling as the mark shown in U.S. Application Serial No. 77/660,077. Except as expressly admitted, Applicant denies the remaining allegations therein.

9. Responding to Paragraph 9 of the Notice of Opposition, Applicant denies the allegations therein.

10. Responding to Paragraph 10 of the Notice of Opposition, Applicant denies the allegations therein.

11. Responding to Paragraph 11 of the Notice of Opposition, Applicant denies the allegations therein.

12. Responding to Paragraph 12 of the Notice of Opposition, Applicant admits that Opposer has no right to control the nature and quality of the services provided by Applicant under its VIDTEL mark. Except as expressly admitted, Applicant denies the remaining allegations in Paragraph 12 of the Notice of Opposition and denies that Opposer will be harmed in any way.

AFFIRMATIVE DEFENSES

On information and belief, Applicant alleges as follows:

13. The Notice of Opposition fails to state a claim upon which relief may be granted to Opposer.

14. On information and belief, Opposer's request for relief is barred by the doctrine of unclean hands.

15. On information and belief, Opposer's request for relief is barred by the doctrine of waiver.

16. On information and belief, Opposer's request for relief is barred by the doctrine of laches.

17. On information and belief, Opposer's request for relief is barred by the doctrine of acquiescence.

18. On information and belief, the VIDTEL mark was abandoned by Opposer and/or its predecessors-in-interest.

19. On information and belief, Opposer lacks standing to bring the Notice of Opposition.

WHEREFORE, Applicant prays:

20. That Opposer's Notice of Opposition be dismissed with prejudice.

21. That Applicant's U.S. Application Serial No. 77/660,077 be allowed to proceed to registration; and

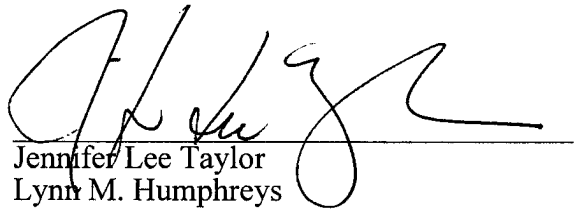
22. That any such further relief be granted to Applicant as may be deemed appropriate.

It is believed that no fee is due. If this is incorrect, the Commissioner is hereby authorized to charge any fees which may be required to **Deposit Account No. 03-1952 (Reference No. 64587-6001502)**.

Respectfully submitted,

Dated: December 12, 2011

By:


Jennifer Lee Taylor
Lynn M. Humphreys
Attorneys for Applicant
Vidtel, Inc.

Morrison & Foerster LLP
425 Market Street
San Francisco, California 94105-2482
Telephone: (415) 268-7000
Facsimile: (415) 268-7522

PROOF OF SERVICE BY MAIL

I am employed with the law firm of Morrison & Foerster LLP, whose address is 425 Market Street, San Francisco, California, 94105; I am not a party to the within cause; I am over the age of eighteen years and I am readily familiar with Morrison & Foerster's practice for collection and processing of correspondence for mailing with the United States Postal Service and know that in the ordinary course of Morrison & Foerster's business practice the document described below will be deposited with the United States Postal Service on the same date that it is placed at Morrison & Foerster with postage thereon fully prepaid for collection and mailing.

I further declare that on December 12, 2011, I served a copy of:

ANSWER TO NOTICE OF OPPOSITION

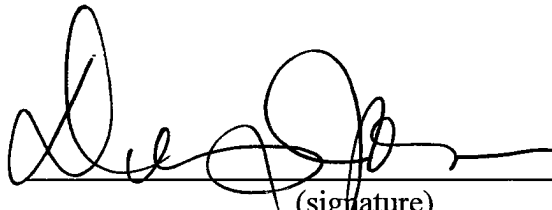
on the following by placing a true copy thereof enclosed in a sealed envelope addressed as follows for collection and mailing at Morrison & Foerster LLP, 425 Market Street, San Francisco, California, 94105, in accordance with Morrison & Foerster's ordinary business practices:

Mark A. Cantor
Brooks Kushman PC
1000 Town Center, 22nd Floor
Southfield, MI 48075

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed at San Francisco, California, this 12th day of December, 2011.

Deena J. Jones
(typed)



(signature)